

**IN THE CLAIMS:**

1. (original) A nonaqueous electrolyte secondary battery which has a positive electrode containing a positive active material, a negative electrode containing a negative active material and a nonaqueous electrolyte, said secondary battery being characterized in that said positive active material comprises a mixture of a lithium transition metal complex oxide A obtained by incorporating at least Zr and Mg into  $\text{LiCoO}_2$  and a lithium transition metal complex oxide B having a layered structure and containing at least Ni and Mn as the transition metal.

2. (original) The nonaqueous electrolyte secondary battery as recited in claim 1, characterized in that said lithium transition metal complex oxide A is represented by the chemical formula:

$\text{Li}_a\text{Co}_{1-x-y-z}\text{Zr}_x\text{Mg}_y\text{M}_z\text{O}_2$  (in the formula, M is at least one element selected from Al, Ti and Sn, and a, x, y and z satisfy  $0 \leq a \leq 1.1$ ,  $x > 0$ ,  $y > 0$ ,  $z \geq 0$  and  $0 < x + y + z \leq 0.03$ ).

3. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~claim 1 or 2~~ claim 1, characterized in that Zr contained in said lithium transition metal complex oxide A exists in the form of a compound adhered onto a surface of the

lithium transition metal complex oxide A.

4. (original) The nonaqueous electrolyte secondary battery as recited in claim 3, characterized in that said Zr compound contained in said lithium transition metal complex oxide A exists in the form of particles adhered onto said surface of the lithium transition metal complex oxide A.

5. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1-4~~ claim 1, characterized in that said lithium transition metal complex oxide B is represented by the chemical formula:  $\text{Li}_b\text{Mn}_s\text{Ni}_t\text{Co}_u\text{O}_2$  (in the formula, b, s, t and u satisfy  $0 \leq b \leq 1.2$ ,  $s + t + u = 1$ ,  $0 < s \leq 0.5$ ,  $0 < t \leq 0.5$  and  $u \geq 0$ ).

6. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1-5~~ claim 1, characterized in that said lithium transition metal complex oxide B contains substantially the same amount by mole of Mn and Ni.

7. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1-6~~ claim 1,

characterized in that said positive active material contains 51 - 90 % by weight of the lithium transition metal complex oxide A.

8. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1 - 7~~ claim 1, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.3 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.

9. (currently amended) The nonaqueous electrolyte secondary battery as recited in ~~any one of claims 1 - 7~~ claim 1, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.4 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.

10. (new) The nonaqueous electrolyte secondary battery as recited in claim 4, characterized in that said lithium transition metal complex oxide B is represented by the chemical formula:  $\text{Li}_b\text{Mn}_s\text{Ni}_t\text{Co}_u\text{O}_2$  (in the formula, b, s, t and u satisfy  $0 \leq b \leq 1.2$ ,  $s + t + u = 1$ ,  $0 < s \leq 0.5$ ,  $0 < t \leq 0.5$  and  $u \geq 0$ ).

11. (new) The nonaqueous electrolyte secondary battery as recited in claim 4, characterized in that said lithium transition metal complex oxide B contains substantially the same amount by mole of Mn and Ni.

12. (new) The nonaqueous electrolyte secondary battery as recited in claim 4, characterized in that said positive active material contains 51 - 90 % by weight of the lithium transition metal complex oxide A.

13. (new) The nonaqueous electrolyte secondary battery as recited in claim 4, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.3 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.

14. (new) The nonaqueous electrolyte secondary battery as recited in claim 4, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.4 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.

15. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said lithium transition metal complex oxide B contains substantially the same amount by mole of Mn and Ni.

16. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said positive active material contains 51 - 90 % by weight of the lithium transition metal complex oxide A.

17. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.3 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.

18. (new) The nonaqueous electrolyte secondary battery as recited in claim 5, characterized in that said positive and negative active materials are contained such that, when a prescribed end-of-charge voltage is 4.4 V, a ratio in charge capacity of the negative to positive electrode is 1.0 - 1.2.